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MAY 03 2004



JFW

DAD

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in this Submission	16	Attorney Docket Number	IS01409MCG
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ENCLOSURES**(check all that apply)**

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/Declaration(s) <input type="checkbox"/> Extension of time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Documents <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts Under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-Related papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CDs	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter with appropriate copies <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below)
		<input checked="" type="checkbox"/> Request for Reconsideration of Petition Under 37 CFR 1.47(a) <input checked="" type="checkbox"/> Declaration of V. Lynn Webb <input checked="" type="checkbox"/> Attachments <input checked="" type="checkbox"/> Declaration of V. Lynn Webb <input checked="" type="checkbox"/> Attachments
Remarks _____ X Copy of Decision Refusing Status Under 37 CFR 1.47(a)		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Kevin D. Wills	Registration No.	43,993
Signature			
Date	April 27, 2004		

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage thereon, as first-class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313 on the date listed below:

Typed or printed name	V. Lynn Webb
Signature	
	Date
	April 27, 2004

MAY 03 2004

**FEE
TRANSMITTAL**

Patent fees are subject to annual revision

TOTAL AMOUNT OF PAYMENT (\$)**130.00***Complete if Known*

Application Number	10/676,744
Filing Date	September 30, 2003
First Named Inventor	Harold N.Rosenstock
Examiner Name	Unknown
Group Art Unit	

Attorney Docket No. IS01409MCG

METHOD OF PAYMENT

1. The Commissioner is hereby authorized to charge indicated fees and credit any overpayment to:

Deposit Account Number **502117**
 Deposit Account Name **Motorola, Inc.**

Charge Any Additional Fee Required
 Under 37 CFR 1.16 and 1.17
 Applicant claims small entity status.
 See 37 CFR 1.27

2. Payment Enclosed:

Check Credit Card Money Order Other

FEE CALCULATION**1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Entity Fee Code	Small Entity Fee (\$)	Fee Paid
101	710	201	365
106	320	206	160
107	490	207	245
108	710	208	355
114	150	214	75

SUBTOTAL (1) (\$0)**2. EXTRA CLAIM FEES**

Total Claims	-20** =	Extra Claims	Fee from below	Fee Paid
Independent	- 3** =		X 18	=
Claims			X 80	=

Multiple Dependent **270** =

Large Entity Fee Code (\$)	Entity Fee Code	Small Entity Fee (\$)	Fee Description
103	18	203	9 Claims in excess of 20
102	80	202	40 Independent claims in excess of 3
104	270	204	135 Multiple dependent claim, if not paid
109	80	209	40 ** Reissue independent
110	18	210	9 ** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$0)

**OR NUMBER PREVIOUSLY PAID, IF GREATER. For Reissues, see above

SUBMITTED BYName (Print/Type) **Kevin D. Wills**Signature **Kevin D. Wills****FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Entity Fee Code (\$)	Small Entity Fee (\$)	Fee Description	
105	130	205 Surcharge - late filing fee or oath	130.00
127	50	227 Surcharge - late Provisional filing	
139	130	139 Non-English specification	
147	2520	147 2520 For filing a request for ex parte Reexamination	
112	920*	112 920* Requesting publication of SIR prior to Examiner action	
113	1840*	113 1840* Requesting publication of SIR after Examiner action	
115	110	215 Extension for reply within first month	
116	390	216 Extension for reply within second month	
117	890	217 Extension for reply within third month	
118	1390	218 Extension for reply within fourth month	
128	1890	228 Extension for reply within fifth month	
119	310	219 Notice of Appeal	
120	310	220 Filing a brief in support of an appeal	
121	270	221 Request for oral hearing	
138	1510	138 1510 Petition to institute a public use proceeding	
140	110	240 Petition to revive - unavoidable	
141	1240	241 Petition to revive - unintentional	
142	1240	242 Utility issue fee (or reissue)	
143	440	243 Design issue fee	
144	600	244 Plant issue fee	
122	130	122 Petitions to the Commissioner	
123	50	123 Processing fee under 37 CFR 1.17(q)	
126	180	126 Submission of IDS	
581	40	581 Recording each patent assignment per property (times number of properties)	
146	710	246 Filing a submission after final rejection (37 CFR § 1.129(a))	
149	710	249 For each additional invention to be examined (37 CFR § 1.129(b))	
179	710	279 Request for Continued Examination (RCE)	
169	900	169 900 Request for expedited examination of a design application	

Other fee (specify)

* Reduced by Basic Filing Fee paid

SUBTOTAL (3) (\$130.00)

05/04/2004 ANNUAL DRAFT 00000036 502117 10676744

130.00 DA
01 FC:1051



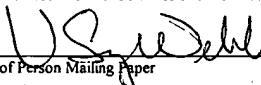
UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Harold N. Rosenstock
APPLICATION NO.: 10/676,744
FILED: September 30, 2003
GROUP ART UNIT:
TITLE: METHOD AND APPARATUS FOR LIMITING STANDBY SUBNET MANAGERS

Certificate of Mailing

Date of deposit: April 27, 2004

I hereby certify that this paper is being deposited with the United States Postal Service on the date indicated above, as first-class mail, with sufficient postage attached thereto, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313.


Signature of Person Mailing PaperV. Lynn Webb
Printed Name of Person Mailing Paper

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a)

In response to the DECISION REFUSING STATUS UNDER 37 CFR 1.47(a), as requested, the petitioners provide herewith proof that joint inventors Richard Dykiel and Richard A. Lagueux were presented with a copy of the application as filed (specification, including claims, drawings and the declaration) at their last known address, thereby giving them an opportunity to review the application papers. Delivery of the documents, mailed via Certified Mail, was refused by the joint inventors. The following documents are included herewith:

<input checked="" type="checkbox"/>	2	page Declaration of V. Lynn Webb Under 37 CFR 1.47 (re Richard Dykiel)
<input checked="" type="checkbox"/>	1	page copy of cover letter to Richard Dykiel
<input checked="" type="checkbox"/>	2	pages copy of Certified Mail envelope to Richard Dykiel, front and back
<input checked="" type="checkbox"/>	2	pages Declaration of V. Lynn Webb Under 37 CFR 1.47 (re Richard A. Lagueux)
<input checked="" type="checkbox"/>	1	pages copy of cover letter to Richard A. Lagueux
<input checked="" type="checkbox"/>	2	pages copy of Certified Mail envelope to Richard A. Lagueux, front and back

The Commissioner is hereby authorized to charge all fees due to Account No. 502117, Motorola, Inc. A fee transmittal is enclosed.

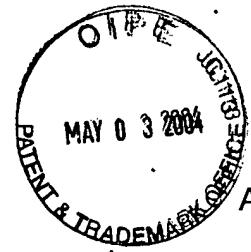
Respectfully submitted,

SEND CORRESPONDENCE TO:

Motorola, Inc.
Law Department
Customer Number: 23330

By: 
KEVIN D. WILLS

Attorney of Record
Reg. No.: 43,993
Telephone: 602-952-4399
Fax No.: 602-952-4376



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Rosenstock et al. Examiner: TBA
Serial No.: 10/676,744 Group: TBA
Filed: 09/30/2003 Case No: IS01409MCG
Entitled: METHOD AND APPARATUS FOR LIMITING STANDBY
SUBNET MANAGERS

DECLARATION OF V. LYNN WEBB UNDER 37 C.F.R. § 1.47

I, V. Lynn Webb, hereby state as follows:

1. I am an Administrative Assistant in the Law Department at Motorola, Inc. ("Motorola"), in Phoenix, Arizona. My responsibilities include obtaining the signatures of current Motorola employees, former Motorola employees and non-employees for the Declaration and Power of Attorney and for the Assignment documents with respect to patent applications filed on their behalf by Motorola as assignee of the inventions therein.
2. On March 29, 2004, I mailed to Richard A. Lagueux, via Certified Mail, Restricted Delivery to Addressee Only, a package containing documents for his review and documents for his signature, under certified mail label number 7099 3220 0004 8835 1744, at his last known address, 11 Pinewood Road, Hudson, NH 03051.
3. The package included copies of the Specification, Claims, Abstract, Drawings, for Richard A. Lagueux' review and a Declaration with Power of Attorney, and an Assignment and Agreement for Richard A. Lagueux' signature with respect to patent application serial no. 10/676,744, attorney docket no. IS01409MCG, filed September 30, 2003.

4. On April 1, 2004, April 6, 2004, and April 16, 2004, delivery of the package was attempted by the U.S. Post Office and ultimately marked REFUSED, RETURN TO SENDER.
5. The package was returned to Motorola unopened on or about April 22, 2004.
6. Enclosed please find copies of the Cover Letter to Mr. Lagueux and a copy of the Certified Mail envelope, front and back, noting the U.S. Post Office's attempts to deliver the package to Mr. Lagueux and the lack of signature on the return receipt still attached to the envelope.

I declare under penalty of perjury that the statements made by me in this Declaration are true and correct.

Respectfully submitted,

V. Lynn Webb
V. LYNN WEBB
MOTOROLA, INC.
Senior Administrative Assistant
Law Department

DATE: April 27, 2004



VIA Certified Mail
Label No. 7099 3220 0004 8835 1744

March 29, 2004

Richard A. Lagueux
11 Pinewood Road
Hudson, NH 03051

RE: Patent Application Title: METHOD AND APPARATUS FOR LIMITING
STANDBY SUBNET MANAGERS
Application Serial No. 10/676,744
Docket Number IS01409MCG

Dear Mr. Lagueux:

Attached for your signature are the formal papers for the above-identified patent application. These documents need to be filed with the United States Patent Office, so please return them to me as soon as possible. After reviewing the final patent application specification and claims and reviewing the formal drawings, please execute the formal papers.

Return the original documents in the enclosed prepaid Federal Express envelope via **FEDERAL EXPRESS PRIORITY OVERNIGHT** to:

Kevin D. Wills
Motorola, Inc.
Law Department
3102 North 56th Street
Maildrop 56-238
Phoenix, AZ 85018
Phone: 602-952-4362

If you have any questions or concerns, please contact me at (602) 952-4364.

Very truly yours,

Kevin D. Wills

CERTIFIED MAIL

MOTOROLA



3102 North 56th Street
Mail Drop 56-238
Phoenix, Arizona 85018

Law Department

7099 3220 0004 8835 1744

**RESTRICTED
DELIVERY**

U.S. POSTAGE
PAID
SCOTTSDALE, AZ
MAR 29, 04
AMOUNT
\$6.72
00030057-07



U.S. POSTAGE
PAID
SCOTTSDALE, AZ
MAR 29, 04
AMOUNT
\$3.50
00030057-07



Richard J. Lagueux
11 Pinewood Road
Hudson, NH 03051

CERTIFIED MAIL



NAME Richard J. Lagueux
1st Notice _____
2nd Notice _____
Return _____

4/1/04
RHOZ
1st Notice _____
2nd Notice _____
Return _____

SENDER: COMPLETE THIS SECTION**COMPLETE THIS SECTION ON DELIVERY**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard A. Lagueux
11 Pinewood Road
Hudson, NH 03051

A. Signature X	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
B. Received by / Printed Name)	C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

**RESTRICTED
DELIVERY**

3. Service Type
<input type="checkbox"/> Certified Mail <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes

2. Article Number
(Transfer from service label) **7099 3220 0004 8835 1744**

PS Form 3811, August 2001 Domestic Return Receipt

102595-02-M-1540



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Rosenstock et al. Examiner: TBA
Serial No.: 10/676,744 Group: TBA
Filed: 09/30/2003 Case No: IS01409MCG
Entitled: METHOD AND APPARATUS FOR LIMITING STANDBY
SUBNET MANAGERS

DECLARATION OF V. LYNN WEBB UNDER 37 C.F.R. § 1.47

I, V. Lynn Webb, hereby state as follows:

1. I am an Administrative Assistant in the Law Department at Motorola, Inc. ("Motorola"), in Phoenix, Arizona. My responsibilities include obtaining the signatures of current Motorola employees, former Motorola employees and non-employees for the Declaration and Power of Attorney and for the Assignment documents with respect to patent applications filed on their behalf by Motorola as assignee of the inventions therein.
2. On March 29, 2004, I mailed to Richard Dykiel, via Certified Mail, Restricted Delivery to Addressee Only, a package containing documents for his review and documents for his signature, under certified mail label number 7099 3220 0004 8836 0586, at his last known address, 29 Ethan Allen Drive, Acton, MA 01720.
3. The package included copies of the Specification, Claims, Abstract, Drawings, for Richard Dykiel's review and a Declaration with Power of Attorney, and an Assignment and Agreement for Richard Dykiel's signature with respect to patent application serial no. 10/676,744, attorney docket no. IS01409MCG, filed September 30, 2003.

4. On April 2, 2004, April 6, 2004, and April 16, 2004, delivery of the package was attempted by the U.S. Post Office and ultimately marked UNCLAIMED, RETURN TO SENDER.

5. The package was returned to Motorola unopened on or about April 22, 2004.

6. Enclosed please find copies of the Cover Letter to Mr. Dykiel and a copy of the Certified Mail envelope, front and back, noting the U.S. Post Office's attempts to deliver the package to Mr. Dykiel and the lack of signature on the return receipt still attached to the envelope.

I declare under penalty of perjury that the statements made by me in this Declaration are true and correct.

Respectfully submitted,



V. LYNN WEBB
MOTOROLA, INC.
Senior Administrative Assistant
Law Department

DATE: April 27, 2004



VIA Certified Mail
Label No. 7099 3220 0004 8836 0586

March 29, 2004

Richard Dykiel
29 Ethan Allen Drive
Acton, Massachusetts 01720

RE: Patent Application Title: METHOD AND APPARATUS FOR LIMITING
STANDBY SUBNET MANAGERS
Application Serial No. 10/676,744
Docket Number IS01409MCG

Dear Mr. Dykiel:

Attached for your signature are the formal papers for the above-identified patent application. These documents need to be filed with the United States Patent Office, so please return them to me as soon as possible. After reviewing the final patent application specification and claims and reviewing the formal drawings, please execute the formal papers.

Return the original documents in the enclosed prepaid Federal Express envelope via **FEDERAL EXPRESS PRIORITY OVERNIGHT** to:

Kevin D. Wills
Motorola, Inc.
Law Department
3102 North 56th Street
Maildrop 56-238
Phoenix, AZ 85018
Phone: 602-952-4362

If you have any questions or concerns, please contact me at (602) 952-4364.

Very truly yours,

Kevin D. Wills

MOTOROLA

3102 North 56th Street
Mail Drop 56-238
Phoenix, Arizona 85018

Law Department

PLACE STICKER AT TOP OF ENVELOPE
TO THE RIGHT OF RETURN ADDRESS.
FOLD AT DOTTED LINE

CERTIFIED MAIL



7099 3220 0004 8836 0586

**RESTRICTED
DELIVERY**



U.S. POSTAGE
PAID
SCOTTSDALE, AZ
MAR 29 2004
AMOUNT
\$10.22
00030057-07

9264

UNITED STATES
POSTAL SERVICE

B100

4/4/04

SV
M

Richard Dykiel
29 Ethan Allen Drive
~~Apartm~~



UNCLAIMED

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard Dykiel
29 Ethan Allen Drive
Acton, MA 01720

COMPLETE THIS SECTION ON DELIVERY

A. Signature	<input checked="" type="checkbox"/> Agent	<input type="checkbox"/> Addressee
X		
B. Received by (Printed Name)	C. Date of delivery	
	7/15/01	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below:	<input type="checkbox"/> No	

**RESTRICTED
DELIVERY**

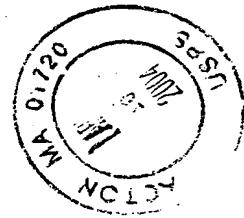
3. Service Type

- Certified Mail
- Express Mail
- Registered
- Return Receipt for Merchandise
- Insured Mail
- C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Transfer from service label)	7099 3220 0004 8836 0586
Domestic Return Receipt	

10296-02-M-1540



PS Form 3811, August 2001



UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 03 2004
PATENT & TRADEMARK OFFICE CIVIC
JC13

MOTOROLA, INC.
CORPORATE LAW DEPARTMENT #56-238
3102 NORTH 56TH STREET
PHOENIX AZ 85018

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW 03-04

MAR 16 2004
3/16

COPY MAILED

MAR 10 2004

OFFICE OF PETITIONS

In re Application of :
Rosenstock, Dykiel, Lagueux, and : DECISION REFUSING STATUS
Duthie : UNDER 37 CFR 1.47(a)
Application No. 10/676,644 :
Filed: 30 September, 2003 :
Atty Docket No. IS01409MCG :
:

This is in response to the petition filed under 37 CFR 1.47(a) on 20 January, 2004.

The petition is DISMISSED.

ACT. DUE: Response
DATE DUE: 10 MAY 2004

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.
Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 30 September, 2003, without an executed oath or declaration. Accordingly, on 22 December, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, on 20 January, 2004, petitioners filed a declaration naming Harold N. Rosenstock, Richard Dykiel, Richard Lagueux, and Peter Duthie as joint inventors, signed by joint inventor Rosenstock on behalf of himself and the other inventors, the present petition, petition fee, and the late-filing surcharge.

Petitioners state that joint inventors Dykiel, Lagueux, and Duthie cannot be reached or have refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee;
- (4) a surcharge of \$130 or \$65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
- (5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1).

In regards to item (1), petitioners have not provided proof that joint inventors Dykiel and Lagueux were ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).¹ The petition states that Kevin D. Wills made a bona fide and diligent attempt to present the application papers to joint inventors Dykiel and Lagueux. However, the petition does not show that a copy of the application papers (specification, claims, drawings, if any, and the declaration) were ever sent or given to joint inventors Dykiel and Lagueux.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact. While petitioners have presented emails from joint inventors Dykiel and Lagueux indicating an unwillingness to join in the filing of the application papers, both joint inventors must be afforded an

¹MPEP 409.03(d).

opportunity to review the application papers. Petitioners should send or give the non-signing inventors a copy of the application papers as specified above at their respective last known addresses with a request that they sign and return the declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions